

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PERRY BAIRD,

Plaintiff,

v.

**WERNERCO SERVICES, INC. and
LOWE’S HOME CENTERS, LLC,**

Defendants.

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Case No. _____

NOTICE OF REMOVAL

COMES NOW, Defendant Wernerco Services, Inc. (“Werner”), and files this Notice of Removal of the case of *Perry Baird v. Wernerco Services, Inc. and Lowe’s Home Centers, LLC*, Cause No. CV15,363, filed in the 258th Judicial District Court of San Jacinto County, Texas, and thereby removes this case to federal court on the ground of diversity jurisdiction under 28 U.S.C. § 1332. Werner respectfully alleges as follows:

1. On March 19, 2018, Plaintiff Perry Baird filed his Original Petition in the 258th Judicial District Court of San Jacinto County, Texas, asserting claims against Werner and Lowe’s arising out of an incident which allegedly occurred on March 19, 2016.
2. The Original Petition, along with the served Citations to Werner and Lowe’s, is attached hereto collectively as Exhibit “A.”
3. The docket sheet from the San Jacintio court records website is attached hereto as Exhibit “B.”
4. The Original Petition, Citations, Lowe’s Original Answer and Werner’s Original Answer are the only documents filed in the action to date in state court.

5. Lowe's was served with the Original Petition and Citation on May 14, 2018. Werner was served with the Original Petition and Citation on May 16, 2018. *See* Ex. A. Werner filed an Answer on June 8, 2018 attached hereto as Exhibit "C." Lowe's filed an Answer on May 23, 2018 attached hereto as Exhibit "D."

6. According to the Original Petition, "Plaintiff Perry Baird, is an Individual who is a resident of San Jacinto County, Texas." Ex. A at p.1, ¶ 3.

7. Werner is a Delaware corporation. Ex. A at p.1 ¶ 4. Werner's headquarters and principal place of business is located at 93 Werner Road, Greenville, Pennsylvania 16125-9499. It has a registered agent in Texas, but does not have its principal place of business in Texas.

8. Lowe's is a North Carolina corporation. Ex. A at p.1 ¶ 4. Lowe's headquarters and principal place of business is located at 1000 Lowe's Blvd., Mooresville, NC 28117. It has a registered agent in Texas, but does not have its principal place of business in Texas.

9. The amount in controversy exceeds \$75,000. Plaintiff has alleged in his Original Petition that "Plaintiff seeks monetary relief over \$50,000.00 but no more than \$500,000.00." Ex. A at p.1, ¶ 2.

10. A jury was not demanded in state court. *See* Ex. A. Werner demanded a trial by jury. *See* Ex. C.

11. This Court has subject matter jurisdiction over this action because Plaintiff, a citizen of Texas, is of diverse citizenship from the Defendants, Werner, a citizen of Pennsylvania and Delaware, and Lowe's, a citizen of North Carolina, thereby satisfying the requirements of 28 U.S.C. § 1332.

11. Werner attaches herewith as Exhibit "E" Lowe's consent to removal of this matter.

12. Removal of this action is timely because it is being removed within 30 days of service upon Werner, May 16, 2018.

Dated: June 11, 2018

/s/ Don Swaim

DON SWAIM

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**ATTORNEYS FOR DEFENDANT
WERNERCO SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that I have complied with the provisions of the Federal Rules of Civil Procedure by serving a copy of the foregoing document on this 11th day of June, 2018, to all counsel of record who have entered an appearance in this action.

/s/ Don Swaim

Don Swaim